REMARKS/ARGUMENTS

I. Introduction:

Claims 1, 20, 23, and 24 are amended and claims 2 and 22 are canceled herein. Claims 31-37 have been withdrawn by consideration from the Examiner as being directed to a non-elected invention. With entry of this amendment, claims 1, 3-21, and 23-30 will be pending.

Applicants' invention is directed to a method and system for measuring performance of a transaction over a computer network. The invention is particularly advantageous in that it simulates a transaction and sends requests generated during the course of the transaction while measuring the response time of the server, for example, at each step of the transaction. Thus, the performance of a web server during a typical transaction can be measured and elements which increase the time spent in the transaction can be identified and potentially reduced.

II. Restriction Requirement:

Applicants affirm the election of Group I (claims 1-30) without traverse.

III. Claim Rejections Under 35 U.S.C. 102:

Claims 1-30 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,438,592 (Killian).

Claim 1 is directed to a method for measuring performance of a transaction over a network. The transaction includes requesting information from an information source connected to the network and interacting with the information source. The method generally comprises: connecting a data acquisition agent to the network; sending a request for information from the data acquisition agent to the information source; loading data responsive to the request for information onto the data acquisition

agent; executing the transaction; collecting performance measurements for the transaction; and sending the performance measurements to a storage device. Claim 1 has been amended to specify that the transaction is executed by simulating a transaction previously recorded between a user machine and the information source, as set forth in original claim 2.

Killian discloses a system for monitoring and improving performance on the World Wide Web. The system includes a server which receives URL requests from client computers and responds by transmitting the requested data to the clients along with performance monitoring instructions. The clients then send performance messages back to the server indicating the time required on the client for certain acts associated with transmitted data. The system may monitor the time required to download a composite data object or instruct the client to measure the time required to execute a transaction.

Applicants respectfully submit that claim 1, as amended, is not anticipated by Killian which does not disclose simulating a transaction previously recorded between a user machine and an information source. In rejecting original claim 2, the Examiner refers to col. 8, lines 39-56 of the Killian patent. This section of the patent discusses measuring performance of an act associated with downloading one or more data objects associated with a Web page. For example, the amount of time to download JavaScript instructions or cookies which are included in the Web page. This portion of the patent does not even disclose executing a transaction and collecting performance measurements for the transaction. The system disclosed in Killian requires specific performance monitoring code to be generated and sent as a confirmation page in order to measure the total time for a form transaction. There is no disclosure in Killian of recording a transaction between a user machine and an information source and simulating this previously recorded transaction to obtain performance measurements for the transaction.

Accordingly, claim 1 is submitted as not anticipated by Killian.

Claims 3-19, depending either directly or indirectly from claim 1 are also submitted as patentable for the reasons discussed above with respect to claim 1.

Claims 14-19 are further submitted as patentable over Killian which does not disclose updating state information to link web pages together within a transaction. In rejecting claim 14, the Examiner refers to Figure 20 and col. 4, lines 59-62. Killian discusses that some monitoring instructions are only performed for a sampling of requests for a given URL, such as when there is a need to update a certain type of performance statistic on the server. There is no disclosure of updating state information to link Web pages together within a transaction.

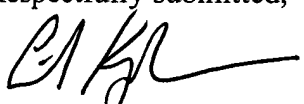
Claim 20 is directed to a system for measuring performance of a transaction over a network. The transaction includes requesting information from a web server connected to the network and interacting with the web server. The system generally comprises a data acquisition agent connected to the network and operable to send a request for information to the web server. The agent is configured to execute the transaction with the web server, collect performance measurements for the transaction, and send the performance measurements to a storage device. Claim 20 has been amended to specify that the data acquisition agent is configured to receive a previously recorded transaction between a user machine and the web server and utilize the recorded transaction to execute the same transaction with the web server.

Claim 20 is submitted as patentable over Killian for the reasons discussed above with respect to claim 1. Claims 21 and 23-30 are submitted as patentable for the same reasons as claim 20.

IV. Conclusion:

For the foregoing reasons, Applicants believes that all of the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8695.

Respectfully submitted,



Cindy S. Kaplan
Reg. No. 40,043

RITTER, LANG & KAPLAN LLP
12930 Saratoga Ave., Suite D1
Saratoga, CA 95070
Tel: 408-446-8690
Fax: 408-446-8691